

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7974

DELANO ANTONIO MIDDLETON,

Plaintiff - Appellant,

versus

DOCTOR PARINA, Senior Physician, FCI Estill,
SC; VENANTUS ENEJE, Physicians Assistant, FCI
Estill SC,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. Henry F. Floyd, District Judge.
(CA-04-617-0-26)

Submitted: March 24, 2005

Decided: March 30, 2005

Before WIDENER and GREGORY, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

Delano Antonio Middleton, Appellant Pro Se. Barbara Murcier
Bowens, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South
Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Delano Antonio Middleton appeals the district court's order accepting and adopting the recommendation of the magistrate judge; summarily dismissing his Bivens* action based on deliberate indifference to his serious medical needs; and dismissing without prejudice his claims for medical malpractice and medical negligence for failure to comply with the prerequisites for pursuing these claims under the Federal Tort Claims Act. The district court referred this case to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2000). The magistrate judge recommended that relief be denied and advised Middleton that failure to timely file objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Middleton failed to object to the magistrate judge's recommendation.

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Middleton has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we affirm the judgment of the district court.

*Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED